

October 22, 2001

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND DECISION ON PRELIMINARY PLAT APPLICATION**

SUBJECT: Department of Development and Environmental Services File No. **L01P0009**

**BLUE HERON PLACE**  
Preliminary Plat Application

Location: South of Northeast 141<sup>st</sup> Street, approximately 200 feet east  
of intersection of Northeast 141<sup>st</sup> Street and 84<sup>th</sup> Avenue Northeast

Applicant: Howard Baker  
*represented by* **Leigh A. Cover**  
Landmark, Inc.  
1130 – 140<sup>th</sup> Avenue Northeast, Ste. 200  
Bellevue, WA 98005  
Telephone: (206) 340-1100  
Facsimile: (425) 747-0982

King County: Department of Development and Environmental Services,  
Land Use Services Division, Current Planning Section,  
*represented by* **Lanny Henoch**  
900 Oakesdale Avenue SW  
Renton, WA 98055-1219  
Telephone: (206) 296-7167  
Facsimile: (206) 296-7055

**SUMMARY OF DECISION/RECOMMENDATION:**

Department's Preliminary Recommendation:	Approve, subject to conditions
Department's Final Recommendation:	Approve, subject to conditions
Examiner's Decision:	Approve, subject to conditions
Complete Application:	April 5, 2001

**EXAMINER PROCEEDINGS:**

Hearing Opened:	October 16, 2001
Hearing Closed:	October 16, 2001

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED:

- Significant trees

SUMMARY:

The preliminary plat application is approved, subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

Owner/Developer:	Howard Baker 16808 – 45 <sup>th</sup> Drive SE Bothell, WA 98012 Phone: (206) 389-4377
Engineer:	Landmark, Inc. 1130 – 140 <sup>th</sup> Ave. NE, Suite 200 Bellevue, WA 98005 Phone: (206) 340-1100
STR:	SW ¼ of the NW ¼ of Section 19, Township 26, Range 5
Location:	Lying on the south side of NE 141 <sup>st</sup> St., approximately 200 feet east of the intersection of NE 141 <sup>st</sup> St. and 84 <sup>th</sup> Ave. NE.
Zoning:	R-6-SO
Acreage:	0.82
Number of Lots:	5
Density:	6.13 dwelling units per acre
Lot Size:	Ranges from approximately 5,500 to 6,700 square feet.
Proposed Use:	Detached single-family residences
Sewage Disposal:	Northshore Utility District
Water Supply:	Northshore Utility District
Fire District:	No. 41
School District:	Lake Washington School District No. 414

Complete Application (Vesting) Date: April 5, 2001

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the King County Hearing Examiner for the October 16, 2001 public hearing are found to be correct and are incorporated herein by reference. The LUSD staff recommends approval of the application, subject to conditions.

3. Landmark, Inc., representing property owner Howard Baker, has filed a preliminary plat application to subdivide 0.82 acres into five lots for single-family residential development. The proposal is for infill development within an existing Juanita residential neighborhood located east of 84<sup>th</sup> Avenue Northeast. Corrections to the staff report include the information that a total of 29 on-site trees are proposed for retention, 14 of which are classified as significant trees.

#### CONCLUSIONS:

1. If approved subject to the conditions imposed below, the proposed subdivision makes appropriate provision for the public health, safety and welfare; serves the public use and interest; and meets the requirements of RCW 58.17.110.
2. The conditions of approval imposed herein, including dedications and easements, will provide improvements that promote legitimate public purposes, are necessary to serve the subdivision and are proportional to its impacts; are required to make the proposed plat reasonably compatible with the environment; and will carry out applicable state laws and regulations and the laws, policies and objectives of King County.

#### DECISION:

The preliminary plat application for Blue Heron Place, as revised and received on September 18, 2001, is approved, subject to the following conditions of final approval:

1. Compliance with all platting provisions of Title 19A of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication which includes the language set forth in King County Council Motion No. 5952.
3. The plat shall comply with the base density and minimum density requirements of the R-6 zone classification. All lots shall also meet the minimum dimensional requirements of the R-6 zone classification and shall be generally as shown on the face of the approved preliminary plat, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services.
4. The applicant must obtain final approval from the King County Health Department. The existing well located on the southeast portion of the site shall be abandoned, in accordance with Washington Department of Ecology standards.
5. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards, established and adopted by Ordinance No. 11187.
6. The applicant must obtain the approval of the King County Fire Protection Engineer, to demonstrate compliance with the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code. A note shall be placed on the final plat indicating that a fire protection sprinkler system, consistent with the King County Fire Code, must be installed in any residences constructed on Lots 1 – 4, unless waived by the King County Fire Marshal.
7. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as shown on the preliminary approved plat. Preliminary review has identified the following conditions of

approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual must also be satisfied during engineering and final review.

- a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual (KCSWDM) and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
  - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
  - c. The following note shall be shown on the final recorded plat:

"All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # \_\_\_\_\_ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file."
  - d. The stormwater retention/detention facility shall be designed using the Level 1 Flow Control methodology, in accordance with the KCSWDM.
8. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
    - a. The frontage of the site along NE 141<sup>st</sup> St. (south side) shall be improved to the urban subcollector standard.
    - b. The internal access road (Tract A) shall be improved to the private access tract standard, per KCRS Section 2.09.
    - c. Modifications to the above road standards may be considered according to the variance provisions in KCRS Section 1.08.
  9. All utilities to be constructed within public right-of-way to serve the subject plat must be included within a franchise approved by the King County Council, prior to final plat recording.
  10. The applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
  11. Lots within this subdivision are subject to KCC 21A.43 and Ordinance 14009 which imposed impact fees to fund school system improvements needed to serve new development. As a condition

of final approval, 50% of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.

12. Lots 1 – 5 shall have undivided ownership of Tract A and be responsible for its maintenance. A note to this effect shall appear on the final plat and engineering plans. Tract A shall also include an easement granted to King County for the purpose of maintenance of the stormwater facilities within the tract. A note to such effect shall appear on the final plat and engineering plans.
13. KCC 16.82.150D applies to the subject property. Therefore, construction work involving soil disturbance, grading, and filling of the site, including individual residential building pad preparation, shall be prohibited from October 1 through March 31, unless King County DDES specifically approves an extension consistent with the provisions of KCC 16.82.150D. A note to this effect shall be shown on the final plat and engineering plans.
14. Suitable on-site recreation space shall be provided consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children’s play equipment, picnic table[s], benches, etc.).
  - a. An overall conceptual recreation space plan shall be submitted for review and approval by LUSD, with the submittal of the engineering plans. The conceptual recreation plan shall include location, area calculations, dimensions, and general improvements. The approved engineering plans shall be consistent with the conceptual plan.
  - b. A detailed recreation space plan (i.e., landscape specifications, equipment specifications, etc.) consistent with the overall conceptual plan noted in Item “a” above, shall be submitted for review and approval by LUSD and King County Parks, prior to or concurrently with the submittal of the final plat documents. The recreation plan shall include fencing along NE 141<sup>st</sup> St. to prevent children and balls used in play from readily entering the street.
  - c. A performance bond for recreation space improvements to assure their installation, and the survival of required plantings for a two year period, shall be posted prior to recording of the plat.
15. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation area.
16. Street trees shall be included in the design of road improvements on the south side of NE 141<sup>st</sup> St., and shall comply with KCRS Section 5.03.
  - a. Trees shall be planted at a rate of one tree for every 40 feet of frontage. Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
  - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless LUSD determines that trees should not be located in the street right-of-way.
  - c. If LUSD determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.

- d. The trees shall be owned and maintained by the abutting lot owners or the homeowners' association or other workable organization, unless the County has adopted a maintenance program. This shall be noted on the face of the final recorded plat.
- e. The species of trees shall be approved by LUSD if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
- f. The applicant shall submit a street tree plan and bond quantity sheet for review and approval by LUSD prior to engineering plan approval.
- g. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for two years. After two years, the maintenance bond may be released after LUSD has completed a second inspection and determined that the trees have been kept healthy and thriving.

A \$538 landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.

17. To implement KCC 21A.38.230 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan (and engineering plans) shall be consistent with the requirements of KCC 21A.38.230, as well as the conceptual tree retention plan which is part of the hearing record for this project. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with KCC 21A.38.230B4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to KCC 21A.38.230B4d(2).

A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with KCC 21A.38.230B6. (Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.)

ORDERED this 22nd day of October.

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Stafford L. Smith  
King County Hearing Examiner

TRANSMITTED this 22nd day of October, to the parties and interested persons of record:

Howard L. Baker  
12903 NE 203rd Ct.  
Woodinville WA 98072

Elon S. Bernier  
8424 NE 140th St.  
Bothell WA 98011-5314

Roger Dorstad  
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Redmond WA 98052

Landmark, Inc.  
1130 - 140th Ave. NE, #200  
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King County Executive Horse Council  
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Seattle-King County Health Dept  
East District Environmental Health  
14350 SE Eastgate Way  
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Bruce Whittaker  
LUSD/ERS  
Prel. Review Engineer  
MS OAK-DE-0100

### NOTICE OF RIGHT TO APPEAL

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) ***on or before November 5, 2001, 2001***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before November 12, 2001***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Court-house, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE OCTOBER 16, 2001 PUBLIC HEARING ON DEPARTMENT OF  
DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO: L01P0009

Stafford Smith was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Lanny Henoeh and Bruce Whittaker. Participating in the hearing and representing the Applicant was Leigh Cover, Landmark, Inc. Applicant Howard Baker also participated in this hearing.

The following exhibits were offered and entered into the record:

- Exhibit No. 1 LUSD File No. L01P0009
- Exhibit No. 2 LUSD staff report prepared for the October 16, 2001 public hearing
- Exhibit No. 3 Environmental checklist, received April 5, 2001
- Exhibit No. 4 SEPA Determination of Non-significance, published on September 7, 2001
- Exhibit No. 5 Affidavit of Posting regarding the Notice of Application
- Exhibit No. 6 Applicant's Preliminary Plat Map, received September 18, 2001
- Exhibit No. 7 Applicant's Preliminary Tree Replacement Plan, received September 18, 2001
- Exhibit No. 8 Land use map – Kroll Maps 416E and 417W
- Exhibit No. 9 King County Assessor maps:
  - a. NW ¼ of Section 19, Township 26, Range 5
  - b. NE ¼ of Section 24, Township 26, Range 4
- Exhibit No. 10 Level 1 Downstream Drainage Analysis, prepared by Landmark, Inc., dated February 12, 2001
- Exhibit No. 11 Modification to conditions nos. 4 and 12
- Exhibit No. 12 Conceptual Drainage Plan, prepared by Applicant, dated April 5, 2001